

The first question asked is, can a party who is school trustee and committeeman in the town of Wilkesboro, without pay or profit, hold at the same time the position of County Commissioner? I do not think so.

In the case of *Barnhill v. Thompson*, 122 N. C., 493, it is held that the Board of County Commissioners and the County Board of Education each constitute an office, and what is said there in regard to the County Board of Education, I think, applies with equal force to school trustees or school committeemen. The fact that no salary was received in one of the places makes no difference.

Welker v. Bledsoe, 68 N. C., 457.

Second. Can one person be, at the same time, Clerk of the Superior Court and a member of a school committee? I do not think he can. A clerk of the court is clearly an officer within the meaning of the Constitution, Article 14, section 7. See

White v. Murray, 126 N. C., 156.

Third. Can a man hold, at the same time, the position of school committeeman and be a trustee for the institution for the feeble-minded? I think these positions are incompatible. In the case of *Welker v. Bledsoe*, *supra*, Chief Justice Pearson says: "The duty of acting for and in behalf of the State constitutes an office. According to this principle the trustees of the University, the directors of the penitentiary, of the lunatic asylum, and of the institution for the deaf, dumb and blind are public officers. This is put beyond doubt by the Constitution, article 14, section 7."

We think this language applies in the case of a trustee for the institution for the feeble-minded to the same extent as to the officers referred to in the language above quoted. See also

Nichols v. McKee, 68 N. C., 434.

In addition to the definition of an office given in *Barnhill v. Thompson*, *supra*, it is defined in *Clark v. Stanly*, 66 N. C., 595, as follows: "A public office is an agency for the State, and the person whose duty it is to perform the agency is a public officer."

Trusting the information I have given is satisfactory, I am,

Very truly yours, G. L. JONES,
Assistant Attorney-General.

March 20, 1911.

HON. J. Y. JOYNER, Supt. Public Instruction, Raleigh, N. C.

DEAR SIR:—Replying to your favor in regard to the situation at Lewiston, I beg to advise that, in my opinion, section 4115 does not authorize one town to invade the corporate limits of another town for the purpose of establishing a special school tax district.

Section 4114 provides for the support of schools in towns and cities by special taxes, and section 4115 covers the county outside of the incorporated towns.

I think that under section 4115 a district can be established containing all the territory within the corporate limits of a town and also include